IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.MC.No. 2461 of 2007()

ST.294/2005 of CHIEF JUDICIAL MAGISTRATE COURT, MANJERI

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PETITIONER: ACCUSED:

P.J.JOSE, 'ATHIRA', HOUSE NO.31/373,
MULLAMPANA, MANJERI, MALAPPURAM DISTRICT.

BY ADV. SRI.BINDU SREEKUMAR

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. C.P.DEVADAS, S/O.SREEDEVI AMMA,
PULPETTA, ERNAD TALUQ, MALAPPURAM DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2461 of 2007

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Dated this the 2nd day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution in S.T. 294 of 2005 (not 294 of 1995 as shown in the petition) before the C.J.M., Manjeri. Consequent to his non-appearance, the learned Magistrate has issued a non-bailable warrant to procure the presence of the petitioner. Other coercive processes have also been taken. The petitioner now finds such warrant of arrest and coercive processes chasing him.

2. According to the petitioner he is absolutely innocent. He has paid the entire amount due to the complainant. But the complainant is not withdrawing the case. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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